

**SUPREME COURT MINUTES
TUESDAY, FEBRUARY 25, 2003
SAN FRANCISCO, CALIFORNIA**

S112201

D039196 Fourth Appellate District,
Division One

PEOPLE v. SAMPLES

Petition for review granted (criminal case)

Votes: George, CJ., Baxter, Chin and
Moreno, JJ.

S112816

G027714 Fourth Appellate District,
Division Three
G027834

VEDANTA SOCIETY v. CALIFORNIA QUARTET

Petition for review granted; issues limited (civil case)

The issue to be briefed and argued shall be limited as follows: Under what circumstances may an appellate court apply a de novo standard of review in determining whether an action was sufficient to justify an award of attorney's fees under Code of Civil Procedure section 1021.5?

Votes: George, CJ., Kennard, Werdegarr and
Moreno, JJ.

S112450

G027838 Fourth Appellate District,
Division Three

PEOPLE v. VALOT

Review granted; briefing & appointment deferred

Further action in this matter is deferred pending consideration and disposition of a related issue in People v. Hernandez, S105271 (see Cal. Rules of Court, rule 28.2(c), formerly rule 29.2(c)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 29.1 (formerly rule 29.3), is deferred pending further order of the court.

Votes: George, CJ., Kennard, Baxter,
Werdegarr, Chin, Brown and Moreno, JJ.

S112982A096731 First Appellate District,
Division Five

PEOPLE v. BAKER

Review granted/briefing deferred (rule 29.3) - criminal case

Further action in this matter is deferred pending consideration and disposition of a related issue in Black on Habeas Corpus, S110887 and Reeves on Habeas Corpus, S110683 (see Cal. Rules of Court, rule 29.2(c)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 29.3, is deferred pending further order of the court.

Votes: George, CJ., Kennard, Baxter, Werdegar, Chin, Brown and Moreno, JJ.

S066487

MICKLE (DENNY) ON H.C.

Petition for writ of habeas corpus denied (AA)

The petition for writ of habeas corpus is denied on the merits. Claim D is dismissed at the threshold as not cognizable on habeas corpus. (In re Lindley (1947) 29 Cal.2d 709, 723.) Part KK is treated not as a claim for relief, but rather as a challenge to the constitutionality of the procedural bar of untimeliness (see In re Robbins (1998) 18 Cal.4th 770, 780-781; In re Clark (1993) 5 Cal.4th 750, 763-799), and as such is rejected. Except for Claims GG, HH, II, and JJ, each cognizable claim is also procedurally barred, separately and independently, as untimely. (See In re Robbins, supra, 18 Cal.4th 770, 780-781; In re Clark, supra, 5 Cal.4th 750, 763-799.) Claims E (as predicated on the Fifth and Fourteenth Amendments to the United States Constitution), F, H (as predicated on the right-to-counsel claim), and CC (to the extent that it is based on matters raised and rejected on appeal) are procedurally barred, separately and independently, because they

were raised and rejected on appeal (see *In re Harris* (1993) 5 Cal.4th 813, 824-829; *In re Waltreus* (1965) 62 Cal.2d 218, 225). Claims C (regarding Gaivizzo and Lack), E (as predicated on the Sixth and Eighth Amendments to the United States Constitution), H (as predicated on the personal-presence claim), Q, T, U (regarding Lack), W (because it now raises state and federal constitutional claims), X, Z (regarding pinpoint instruction), AA, BB (except for its ineffective-assistance-of-counsel component), and CC, DD, and EE (to the extent that these last three are based on matters presentable on appeal) are procedurally barred, separately and independently, because they could have been, but were not, raised on appeal (see *In re Harris*, *supra*, 5 Cal.4th 813, 824-829; *In re Dixon* (1953) 41 Cal.2d 756, 759). The parts of Claim Y regarding trial counsel's failure to attempt to exclude evidence that petitioner infected Rosa S. and Sheba R. and molested Sheba R. and LaKecia R., and to attempt to preclude cross-examination on his misconduct at the Napa State Hospital while confined there, are procedurally barred, separately and independently, because they were raised and rejected in a prior petition for writ of habeas corpus (*In re Denny Mickle on Habeas Corpus* (S025619, petn. den. July 15, 1992)) (see *In re Miller* (1941) 17 Cal.2d 734, 735).

S112229

C039579 Third Appellate District

EHLERS ELEVATORS v. BETA SEED

Petition for review denied

Brown, J., is of the opinion the petition should be granted.

S112340

C034127 Third Appellate District

MARIN HEALTHCARE DISTRICT v. SUTTER HEALTH

Petition for review denied

Appellant's Request for Judicial Notice is granted.

S112469

G029720 Fourth Appellate District,
Division Three

BIAS v. WRIGHT

Petition for review denied

S112533

E030182 Fourth Appellate District,
Division Two

PEOPLE v. MILLER (CREATIVE BAIL BONDS)

Petition for review & publication request denied

S112591**KREMEN v. COHEN**

Request for certification denied

The request, made pursuant to California Rules of Court, rule 29.8, that this court decide a question of California law presented in a matter pending in the Ninth Circuit Court of Appeals, is denied.

S112631

D040755 Fourth Appellate District,
Division One

VASQUEZ (RICARDO) ON H.C.

Petition for review denied

S112702

C039383 Third Appellate District
C039629

PEOPLE v. O'CONNELL

Petition for review denied

S112751

D039113 Fourth Appellate District,
Division One

MORRIS v. EDMONDS

Petition for review denied

S112785

B156293 Second Appellate District,
Division Four

PEOPLE v. WILKINS

Petition for review denied

B158421

B157263

S112788

B155799 Second Appellate District,
Division Eight

INSUA v. SCOTTSDALE

Petition for review denied

S112804
H024361 Sixth Appellate District

G., (SERINA), IN RE
Petition for review denied

S112824
F038767 Fifth Appellate District

PEOPLE v. CHAVEZ
Petition for review denied

S112828
E031902 Fourth Appellate District,
Division Two

P. (JAMES), IN RE
Petition for review denied

S112847
D041074 Fourth Appellate District,
Division One

EL PASO NATURAL GAS v. S.C. (SWEETIES}
Petition for review denied

S112853
B154445 Second Appellate District,
Division Three

H. (DANNY), IN RE
Petition for review denied

Kennard, J., is of the opinion the petition
should be granted.

S112858
H022600 Sixth Appellate District

PEOPLE v. PATHAN
Petition for review denied

S112865
D041071 Fourth Appellate District,
Division One

EL PASO NATURAL GAS v. S.C. (SWEETIES)
Petition for review denied

The request for Judicial Notice is denied.

S112869
D037895 Fourth Appellate District,
Division One

PEOPLE v. RIOS
Petition for review denied

S112896
F039265 Fifth Appellate District

PEOPLE v. LOWE
Petition for review denied

S112899
C042408 Third Appellate District

RICKABAUGH v. ALBRECHT
Petition for review denied

S112902

B158570 Second Appellate District,
Division One

GARCIA v. DIRECTV, INC.

Petition for review denied

S112936

B157163 Second Appellate District,
Division Eight

STEELE v. GOURLEY

Petition for review denied

S112946

A096923 First Appellate District,
Division Four

PEOPLE v. WARNER

Petition for review denied

S112948

A097611 First Appellate District,
Division One

PEOPLE v. DENNY

Petition for review denied

S112953

F037811 Fifth Appellate District

PEOPLE v. POWELL

Petition for review denied

S112961

H022723 Sixth Appellate District

PEOPLE v. SERRANO

Petition for review denied

S112963

C042928 Third Appellate District

SOUTH PASADENA v. S.C. (CALTRANS)

Petition for review and application for stay denied

S112965

C036914 Third Appellate District

PEOPLE v. OUBICHON

Petition for review denied

S112966

B156403 Second Appellate District,
Division Six

PEOPLE v. PLASCENCIA

Petitions for review denied

S112979

A097806 First Appellate District,
Division Four

PEOPLE v. SECREASE

Petition for review denied

S112981

C038181 Third Appellate District
C038703

PEOPLE v. WAKEFIELD

Petitions for review denied

S112986

G028241 Fourth Appellate District,
Division Three

PEOPLE v. HICKMAN

Petition for review denied

S112988

D039621 Fourth Appellate District,
Division One

PEOPLE v. AGUILAR

Petition for review denied

S112989

F039191 Fifth Appellate District

PEOPLE v. FOLEY

Petition for review denied

S112993

A098111 First Appellate District,
Division Five

PEOPLE v. BROOKS

Petition for review denied

S112995

F039331 Fifth Appellate District

PEOPLE v. TATE

Petition for review denied

S112998

B154333 Second Appellate District,
Division One

PEOPLE v. DOTSON

Petition for review denied

S112999

D038150 Fourth Appellate District,
Division One

PEOPLE v. ATTA

Petition for review denied

S113000

B152074 Second Appellate District,
Division Five
B157289

PEOPLE v. TURNER

Petition for review denied

S113001

A096384 First Appellate District,
Division One

PEOPLE v. MCCLENDON
Petition for review denied

S113002

B154258 Second Appellate District,
Division One

O. (NOAH), IN RE
Petition for review denied

S113003

F037968 Fifth Appellate District

PEOPLE v. VASQUEZ
Petitions for review denied

S113004

B155815 Second Appellate District,
Division Six

PEOPLE v. MITCHELL
Petition for review denied

S113006

H022573 Sixth Appellate District

PEOPLE v. ALEGRE
Petition for review denied

S113007

H025045 Sixth Appellate District

ALEGRE (SALVADOR JOSE), ON H. C.
Petition for review denied

S113008

A101245 First Appellate District,
Division Five

UNITED STATES FIRE v. S.C. (KELLY-MOORE PAINT)
Petition for review denied

S113009

H023348 Sixth Appellate District

A. (STEVEN), IN RE
Petition for review denied

S113011

D038525 Fourth Appellate District,
Division One

PEOPLE v. G. (MANUEL)
Petition for review denied

S113012

F037904 Fifth Appellate District

PEOPLE v. GRAHAM
Petition for review denied

S113013

A093189 First Appellate District,
Division Five

PEOPLE v. NAPOLES
Petition for review denied

S113015

E029985 Fourth Appellate District,
Division Two

PEOPLE v. CORYELL

Petition for review denied

S113016

E030239 First Appellate District,
Division Two

PEOPLE v. HUERTA

Petition for review denied

S113019

A096100 First Appellate District,
Division Two

C., (LYNDON), IN RE

Petition for review denied

S113020

D038515 Fourth Appellate District,
Division One
D039271

PEOPLE v. JACQUES

Petition for review denied

S113022

B157499 Second Appellate District,
Division Three

PEOPLE v. MELENDEZ

Petition for review denied

S113038

B153748 Second Appellate District,
Division Four

PEOPLE v. CRUZE

Petition for review denied

S113042

B153059 Second Appellate District,
Division Three

PEOPLE v. BARRON

Petitions for review denied

S113046

H025037 Sixth Appellate District

PEOPLE v. LOZANO

Petition for review denied

S113052

C039444 Third Appellate District

PEOPLE v. GREEN

Petition for review denied

S113053

G031632 Fourth Appellate District,
Division Three

MCKAY (RICHARD) ON H.C.

Petition for review denied

S113055

D037851 Fourth Appellate District,
Division One

PEOPLE v. HARPER

Petition for review denied

S113057

A094560 First Appellate District,
Division Five

PEOPLE v. BURNS

Petition for review denied

S113058

B155678 Second Appellate District,
Division Eight

PEOPLE v. SORIANO

Petition for review denied

S113063

C039004 Third Appellate District

PEOPLE v. FORESHEE

Petition for review denied

S113065

D038858 Fourth Appellate District,
Division One

PEOPLE v. CAPORRIMO

Petition for review denied

S113067

H024160 Sixth Appellate District

PEOPLE v. MARTINEZ

Petition for review denied

S113073

D039295 Fourth Appellate District,
Division One

PEOPLE v. BELTON

Petition for review denied

S113076

A101314 First Appellate District,
Division Two

PFISTER v. S.C. (ALEXANDER)

Petition for review denied

S113077

A101291 First Appellate District,
Division Five

BANK OF AMERICA v. S.C. (ABDELMANNAN)

Petition for review denied

Chin, J., was recused and did not participate.

S113079

B155084 Second Appellate District,
Division Three

PEOPLE v. CINTRON

Petition for review denied

S113087

B156055 Second Appellate District,
Division Six

PEOPLE v. MEEKS

Petition for review denied

S113100

D038417 Fourth Appellate District,
Division One

PEOPLE v. DELAGARZA

Petition for review denied

S113115

B155942 Second Appellate District,
Division Eight

PEOPLE v. VENTURA

Petition for review denied

S113124

F039099 Fifth Appellate District

PEOPLE v. JACKSON

Petition for review denied

S113126

B163900 Second Appellate District,
Division One

CALDWELL (DIRRYE L.) ON H.C.

Petition for review denied

S113128

B156892 Second Appellate District,
Division Four

PEOPLE v. PULLUM

Petition for review denied

S113131

G031685 Fourth Appellate District,
Division Three

MENDOZA (FRANK) ON H.C.

Petition for review denied

S113143

B161376 Second Appellate District,
Division Six

MIKE v. WIP COMMUNICATIONS

Petition for review denied

S113148

B155476 Second Appellate District,
Division One

PEOPLE v. POLLARD

Petition for review denied

S113150

B153749 Second Appellate District,
Division Five

PEOPLE v. HOLMES

Petition for review denied

S113152

D037249 Fourth Appellate District,
Division One

PEOPLE v. MEZA

Petitions for review denied

S113389

A101484 First Appellate District,
Division One

KING v. S. C. (PEOPLE)

Petition for review and application for stay denied

S113427

A101402 First Appellate District,
Division Four

TRUBY v. S.C. (PEOPLE)

Petition for review and application for stay denied

S113431

C043160 Third Appellate District

ROTAR v. S.C. (PEOPLE)

Petition for review denied

S103983

WICKHAM (GARY V.) ON H.C.

Petition for writ of habeas corpus denied

S104322

DEARING (MICHAEL) ON H.C.

Petition for writ of habeas corpus denied

S112216

A097105 First Appellate District,
Division One

CULLEN v. INDUSTRIAL HOLDINGS

Publication request denied (case closed)

S113168

D039299 Fourth Appellate District,
Division One

PEOPLE v. BARNETT

Publication request denied (case closed)

S105294

FRESQUEZ (LOUIS R.) ON H.C.

Extension of time granted

To March 21, 2003 to file AG's Informal Response.

S109734

B152731 Second Appellate District,
Division Seven

PEOPLE v. GRIFFIN

Extension of time granted

To March 24, 2003 to file Appellant's Answer Brief on the Merits.

S111494

D037680 Fourth Appellate District,
Division One

PEOPLE v. KONOW

Extension of time granted

To March 10, 2003 to file Respondent's {Steven Rohrer} Opening Brief on the Merits.

S111585

B158391 Second Appellate District,
Division Seven

ROJAS v. S.C. (COFFIN)

Extension of time granted

To March 17, 2003 to file RPI's (Julie Coffin) Opening Brief on the Merits.

S111585

B158391 Second Appellate District,
Division Seven

ROJAS v. S.C. (COFFIN)

Extension of time granted

To March 17, 2003 to file RPI's (Deco Construction Corporation) Opening Brief on the Merits.

S111780

H023080 Sixth Appellate District

T. (GEORGE), IN RE

Extension of time granted

Appellant's time to serve and file the brief on the merits is extended to and including March 25, 2003.

S094627

D034189 Fourth Appellate District,
Division One

PEOPLE v. ROBERGE

Order filed

The time for granting or denying rehearing in the above-entitled case is hereby extended to May 8, 2003, or the date upon which rehearing is either granted or denied, whichever comes first.

Bar Misc. 4186

IN THE MATTER OF THE APPLICATION OF
THE COMMITTEE OF BAR EXAMINERS OF
THE STATE OF CALIFORNIA FOR
ADMISSION OF ATTORNEYS

The written motion of the Committee of Bar Examiners that the following named applicants, who have fulfilled the requirements for admission to practice law in the State of California, be admitted to the practice of law in this state is hereby granted, with permission to the applicants to take the oath before a competent officer at another time and place:

(LIST OF NAMES ATTACHED TO
ORIGINAL ORDER)

S108587

RULE 962 SUSPENSION

Order filed

Having been provided proof of compliance pursuant to Family Code 17520, the suspension of Joel B. Feinberg pursuant to our order filed on February 24, 2003, is hereby terminated.

This order is final forthwith.

S110193**GILL ON DISCIPLINE**

Pet/writ of review denied; recommended discipline Imposed

It is ordered that Keith Hubert Gill, State Bar Number 43381, be suspended from the practice of law in the State of California for five years, that execution of the five-year suspension be stayed, and that he be placed on probation for five years on the conditions recommended by the Review Department of the State Bar Court in its opinion filed on August 6, 2002, including the conditions that Gill be actually suspended from the practice of law in this state for two years and until he shows proof satisfactory to the State Bar Court of his rehabilitation, present fitness to practice, and present learning and ability in the general law in accordance with standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct and that Gill make restitution to the estate of Elinore D. Lewis (or the Client Security Fund, if it has paid) in the amount of \$282,000.00 together with interest thereon at the rate of 10 percent simple interest per annum from May 9, 1989, until paid. Gill is ordered to take and pass the Multistate Professional Responsibility Examination within the period of his actual suspension and to provide satisfactory proof of his passage of that examination to the State Bar's probation unit in Los Angeles within that same period of time. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Further, Gill is ordered to comply with rule 955 of the California Rules of Court and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar day respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and payable in accordance with Business and Professions Code section 6140.7. *(See Bus. & Prof. Code, § 6126, subd. (c).)

SAN FRANCISCO

FEBRUARY 25, 2003

302

S108587

RULE 962 SUSPENSION

Suspension for non-payment of family support ordered

Stephen Bernanrd SB# 56553 effective
March 26, 2003.

